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THE MASSACHUSETTS PROBATION SYSTEM, ITS ADMINISTRATION AND OPERATION.

In 1891 Massachusetts made probation a feature of its judicial system, providing that each of the lower courts shall have a probation officer. There are sixty-nine of these courts, which handle nearly all the crime of the State. They have jurisdiction of practically all the misdemeanors, and dispose, finally, of most of them. They have no juries. Each of these courts* is required to appoint one probation officer. The courts of South Boston, Roxbury, and Cambridge, are each authorized to appoint a female assistant probation officer. The Worcester Central District Court is authorized to appoint an assistant probation officer, with no restriction as to sex. The Boston Municipal Court has eight assistant probation officers, three of whom are women. This court had 28,563 new cases in 1906, nearly five times as many as any other court.

The first duty of the probation officer is to investigate all cases brought before the court, so that the judge may know not only the facts regarding the alleged offence, but also the previous record of the accused; his general character; whether he has a family; if so, whether he supports it; whether he is industrious or idle, temperate or dissipated; everything, in fact, which will aid in making an intelligent disposition of the case. The theory underlying the collection of this information is that the court needs to know what a man is as well as what he has done.

The second duty of the probation officer is to take the care of convicted persons who do not need imprisonment,

*The superior court (which has juries and tries cases of felony and appealed cases of misdemeanor) also has authority to appoint probation officers. The report of the Prison Commissioners for 1906 contains reports from eight of these officers, in eleven of the fourteen counties. 2,073 cases were placed on probation. 1,016 were for drunkenness (796 of them in Suffolk County), but there were many felonies, also, such as burglaries, adultery, assault, larceny, robbery, forgery, etc.

but who should not be discharged. That custodial supervision could be substituted for imprisonment was a bold assumption when it was first made in 1878, but it has been justified by experience. The probationer is in the control of the officer who may surrender him to the court whenever it is necessary. The restraint of the supervision has been found to be sufficient to prevent a repetition of the offence in a great majority of the cases. The relation of the officer to the probationer is also a friendly one, and becomes very helpful in many cases.

Coincident with the creation of the probation system, a new method of dealing with criminal drunkenness was established. Its foundation was the records of the probation officer and his personal knowledge of persons arrested. These made it possible to recognize the habitual drunkard and to discriminate between him and the occasional or accidental offender. The legislation of 1891 provided for the release of the latter from the station house by the police, while the former was put into court for judicial consideration. It was not fully satisfactory and several changes have been made. The most important of these put upon the court the duty of classification, authorizing it to release without arraignment those who were found to be only occasional offenders. Practically, the court acted wholly upon the report of the probation officer as to previous arrests, and in 1905 the law was so modified (Chap. 384) that power to release from station houses was vested in the probation officer. The arrested person makes a written request for release in a statement giving his name and address and setting forth what persons are dependent upon him, his place of employment, if any, and whether he has been arrested for drunkenness within the preceding twelve months. The probation officer is required to investigate this statement, and if he finds that it is probably true and is of the opinion that the prisoner will appear upon a summons if wanted and that he has not twice before been

arrested for drunkenness within the preceding twelve months, he may direct his release from the station house or the house of detention.

This legislation recognizes the difference between drunkenness and other crimes. In no other State are the peace and good order of the community so carefully protected as in Massachusetts. The drunken man (or woman) is taken from the streets in the interest of decency and for his own protection. If he is an habitual offender, he may need confinement for his own sake and should be put into court so that a judicial decision may be made regarding his treatment. The occasional offender may be allowed to go, when he is sober, with the admonition that his first offence will be considered if a second is committed. He is saved from the disgrace of an exposure in court, is able to go to his work, and is spared the stigma of a court record.

The law which authorized release without arraignment of persons arrested for drunkenness was used in 1904 in 15,737 cases, showing a considerable recognition of the new principle of discrimination between different classes. The law of 1905, authorizing release from station houses by direction of probation officers, was used in 1906 in 26,890 cases. In addition, the courts released 21,700 without arraignment, making a total of 48,590 who were not brought to trial. (The total number of arrests for drunkenness was 79,395.)

There has been a steady increase in the use of probation, year by year, since 1891. In 1892 the number of cases placed on probation was 5,197. In 1896 the number had increased only to 5,767. In 1901 the number was 6,887. Since 1901 the increase has been much more rapid and in 1906 the number was 10,120. This statement as to the increased use of probation does not apply to all the courts. More than 80 per cent. of the increase was in ten courts,—not all of them among the largest. Some used it less in 1906 than in 1901. The development of the system has not been

uniform, either as to the number of cases or to the classes of cases. It has not yet attained the ideal which is that no person should be sent to prison who can be dealt with by probation with a due regard to his interests and to those of the public. The lack of uniformity in the use of probation is not due to any defect of the system. It may be assumed that, when conditions are the same, the wide differences in the number of cases placed on probation and in the classes of cases in which it is applied are due to the different views of the judges.

In a study of the use of probation it is necessary to compare courts of substantially the same size. The problems of a small court in a rural section, having jurisdiction over several country towns, are different from those of the large courts, having mainly a local jurisdiction, where the judge and the probation officer know a considerable proportion of the offenders and their surroundings.

In the following table, compiled from the report of the Prison Commissioners for 1906, the courts have been arranged in the order of the number of cases begun during the year, making it easy to compare courts of the same size and of the same general character.

TABLE I.

SHOWING NUMBER OF NEW CASES BEGUN IN 1906, IN MUNICIPAL, POLICE, AND DISTRICT COURTS, THE NUMBER OF RELEASES IN CASES OF DRUNKENNESS, THE NUMBER OF CASES PLACED ON PROBATION, AND THE NUMBER OF SENTENCES, WITH PERCENTAGES OF EACH, BASED UPON NUMBER OF CASES BEGUN.

Courts.	Number of Cases begun.	Probation.		Releases.		Sentences.	
		Number of Cases.	Per Cent.	Number of Cases.	Per Cent.	Number of Cases.	Per Cent.
Franklin, E. . . .	49	2	4.1	—	—	34	69.4
Dukes	57	20	35.1	—	—	14	24.6
Williamstown . .	82	—	—	—	—	49	59.8
Essex, 3	105	22	21.0	5	4.8	51	48.6
Barnstable, 2 . .	123	7	5.7	2	1.6	105	85.4
Worcester, 1 E. .	131	8	6.1	1	—	79	60.3
Barnstable, 1 . .	136	21	15.4	—	—	85	62.5
Hampshire, E. . .	160	17	10.6	9	5.6	123	76.9
Winchendon . . .	167	10	6.0	17	10.2	82	49.1
Lee	169	10	6.0	—	—	137	81.1
Worcester, W. . .	239	60	25.1	—	—	137	57.3
Essex, 2	257	24	9.3	38	14.8	160	62.3
Plymouth, 4 . . .	270	1*	—	5*	1.9	203	75.2
Berkshire, So. . .	292	11	3.8	—	—	240	82.2
Middlesex, 1 No. .	300	35	11.7	18	6.0	119	39.7
Hampden, E. . . .	334	16	4.8	—	—	235	70.4
Norfolk, So. . . .	337	35	10.4	—	—	212	62.9
Marlborough . . .	356	24	6.7	96	27.0	138	38.8
Plymouth, 3 . . .	380	4	1.0	24	6.3	229	60.3
Worcester, 2 So. .	416	72	17.3	—	—	270	64.9
Middlesex, 1 So. .	464	24	5.2	21	4.5	218	47.0
Norfolk, W. . . .	469	22	4.7	1	—	247	52.7
Worcester, 2 E. .	488	68	13.9	27	5.5	216	44.3
Worcester, 3 So. .	500	140	28.0	—	—	260	52.0
Franklin	520	3	0.6	3	0.6	323	62.1
Worcester, 1 No. .	552	14	2.5	102	18.4	223	40.4
Brookline	581	96	16.5	4	0.7	178	30.6
Worcester, 1 So. .	588	52	8.8	16	2.7	317	53.9
Berkshire, 4 . . .	621	No	report.	No	report.	355	57.2
Chicopee	658	16	2.4	28	4.3	452	68.7
Bristol, 4	683	71	10.4	22	3.2	289	42.3
Hampden, W. . . .	688	17	2.5	22	3.2	423	61.5
Middlesex, Central	753	159	21.1	40	5.3	392	52.1
Hampshire	831	45	5.4	—	—	609	73.3
Brighton	864	51	5.9	—	—	566	65.5
Newton	889	128	14.4	120	13.5	411	46.2
Berkshire, No. . .	929	103	11.1	16	1.7	363	39.1
W. Roxbury . . .	972	145	14.9	11	1.1	633	65.1

* Report for eight months.

TABLE I.—(Continued.)

Courts.	Number of Cases begin.	Probation.		Releases.		Sentences.	
		Number of Cases.	Per Cent.	Number of Cases.	Per Cent.	Number of Cases.	Per Cent.
Newburyport . .	1,080	160	14.8	363	33.6	452	41.9
Middlesex, 2 E. .	1,093	119	10.9	206	18.9	424	38.8
Fitchburg	1,102	208	18.9	203	18.4	445	40.4
Middlesex, 4 E. .	1,151	120	10.4	34	3.0	741	64.4
Essex, E.	1,249	51	4.1	389	31.1	439	35.2
Berkshire, Central	1,314	16	1.2	188	14.3	847	64.5
Norfolk, No. . . .	1,435	35	2.4	213	14.8	859	59.9
Dorchester	1,595	70	4.4	265	16.6	910	57.1
Plymouth, 2	1,615	—	—	3	—	467	28.9
Bristol, 1	1,630	99	6.0	372	22.8	833	51.1
Holyoke	1,747	146	8.4	141	8.1	1,330	76.1
Somerville	1,805	466	25.8	52	2.9	854	47.3
Middlesex, 1 E. . .	1,931	235	12.2	441	22.8	568	29.4
Norfolk, E.	1,942	232	12.0	525	27.0	737	38.0
Essex, No. Central	1,959	558	28.5	136	6.9	988	50.4
Bristol, 3	2,341	28	1.2	1,081	46.2	858	36.7
E. Boston	2,363	371	15.7	342	14.5	1,188	50.3
Brockton	2,679	432	16.1	549	20.5	1,521	56.8
Chelsea	2,766	282	10.2	180	6.5	1,895	68.5
Springfield	2,827	105	3.7	354	12.5	1,713	60.6
Middlesex, 3 E. . .	2,919	394	13.5	663	22.7	1,124	38.5
Charlestown	3,376	98	2.9	162	4.8	1,542	45.7
Lawrence	3,464	81	2.3	536	15.5	2,309	66.7
Essex, 1	3,483	238	6.8	1,180	33.9	1,425	40.9
So. Boston	4,233	396	9.4	147	3.5	1,985	46.9
Bristol, 2 (F. River)	4,368	469	10.7	1,596	36.5	2,005	45.9
Lowell	4,981	409	8.2	1,208	24.3	2,560	51.4
Lynn	5,786	136	2.4	859	14.9	1,836	31.7
Roxbury	5,795	455	7.9	1,173	20.2	2,899	50.0
Worcester, Central	5,843	141	2.4	2,321	39.7	1,977	33.8
Boston	28,563	2,017	7.1	10,360	36.3	9,076	31.8
Total	124,845	10,120	8.1	26,890	21.5	55,984	44.8

The preceding table shows the number of criminal cases of all kinds begun in the sixty-nine lower courts, and (2) the number of cases of drunkenness released by the probation officers, and the percentage which they bear to the whole number of cases of all kinds which were begun in the courts. (This is not an absolutely sound basis of comparison, for the proportion of cases of drunkenness to all cases is not the same in all courts, but, as the commissioners' report does not give the number of cases of drunkenness begun in the several courts, the percentage of releases to new cases of all kinds is the only possible one. It is substantially accurate).

The table also gives (1) the number of probation cases, and the percentage of such cases to the number of cases of all kinds begun, and (3) the number of sentences imposed by each court, and the proportion which they bear to the number of cases begun.

An inspection of the table shows that in the matter of the release in cases of drunkenness there were fourteen courts which did not use the law authorizing such release in a single case. This included nine courts in which from 239 to 864 cases of all kinds were begun during the year. There were seven others in which the number of releases of persons arrested for drunkenness was less than six each. The percentage of releases to new cases of all kinds begun during the year varies greatly. The following summary, by large groups, shows the variations in courts of substantially the same character and class. (The Boston Central Court is omitted, as it is in a class by itself on account of the great number of its cases. It had 28,563 new cases of all kinds in 1906. 10,360 cases of drunkenness were released from the house of detention by its probation officers, or 36.3 per cent. of all cases begun.)

TABLE II.

SUMMARY OF TABLE I, SHOWING, BY LARGE GROUPS, THE NUMBER OF CASES OF ALL KINDS BEGUN, AND THE PERCENTAGES WHICH RELEASES FOR DRUNKENNESS BORE TO SUCH CASES.

Number of Cases of All Kinds begun.	Percentages of Releases to Cases of All Kinds begun.	
	Highest.	Lowest.
Less than 500 cases each (23 courts)	27.0	—
500 to 999 cases each (15 courts)	18.5	—
1,000 to 1,999 cases each (15 courts)	33.6	—
2,000 to 2,999 cases each (6 courts)	46.2	6.5
3,000 to 3,999 cases each (3 courts)	33.9	4.8
4,000 to 4,999 cases each (3 courts)	36.5	3.5
5,000 to 5,999 cases each (3 courts)	39.7	14.8

It will be seen that in courts having less than 2,000 cases there were some in each group which released so few as not to yield a computable percentage. In the same group of courts the exercise of the power varied from 18.5 to 33.6 per cent.

In the next larger courts, 2,000 to 2,999 cases, the average highest percentages of releases in cases of drunkenness to all cases begun were larger, reaching in one court 46.2 per cent. as against a lowest percentage of 6.5. In the 3,000 group the percentages ranged from 4.8 to 33.9; in the 4,000 group, from 3.5 to 36.5; and in the 5,000 group, from 14.8 to 39.7.

In other words, a man arrested in a jurisdiction where there are 46.2 per cent. of releases for drunkenness has more than thirteen times as many chances of escaping a trial as he would have if arrested in a jurisdiction in which only 3.5 persons arrested for drunkenness are released for each one hundred cases of all kinds begun. There are two courts with adjoining jurisdictions, in one of which there are 3.5 releases of persons arrested for drunkenness for each one hundred cases of all kinds begun, while in the other the number is 20.2 in a hundred. In another case one court releases 2.9 per cent., and an adjoining one 22.7 per cent.

On one side of the invisible line which separates the jurisdiction of the two courts a man's chances of escaping being put into court for drunkenness are nearly ten times as great as they are if he is arrested on the other side of the line.

When the number of cases placed on probation is examined, the same variations are found. There are a few small courts which do not place any offenders on probation. There are eighteen which place on probation less than 6 per cent. of all the cases begun in the year. Among these are some large courts, having several thousand cases each in the course of a year. Using the same grouping as in the preceding table, the variation in the percentage of cases taken on probation to all cases begun during the year is shown:—

TABLE III.

SUMMARY OF TABLE I, SHOWING, BY LARGE GROUPS, THE NUMBER OF CASES OF ALL KINDS BEGUN AND THE PERCENTAGE WHICH CASES PLACED ON PROBATION BORE TO CASES BEGUN.

Number of Cases of All Kinds begun.	Percentages of Cases placed on Probation.	
	Highest.	Lowest.
Less than 500 cases each (23 courts)	35.1	—
500 to 999 cases each (15 courts)	28.0	—
1,000 to 1,999 cases each (15 courts)	28.5	—
2,000 to 2,999 cases each (6 courts)	16.1	1.2
3,000 to 3,999 cases each (3 courts)	6.8	2.3
4,000 to 4,999 cases each (3 courts)	10.7	8.2
5,000 to 5,999 cases each (3 courts)	7.8	2.3

The Boston Central Court, with 28,563 new cases of all kinds begun during the year, placed 2,017 cases on probation, or 7.1 per cent. of all cases begun.

In the matter of release from station houses in cases of drunkenness, already considered, detention merely meant subsequent arraignment in court with a fair chance of release there. But in the matter of probation, the alternative is usually imprisonment. The table shows that in some of the courts having less than 2,000 criminal cases in 1906 a

prisoner has no chance of probation in place of a sentence, while in other courts of the same class he has 35 chances in a hundred of being placed on probation. In some of the courts having more than 2,000 cases annually his chances of probation instead of a sentence are 1.2 in a hundred, in others as high as 16.1 in a hundred.

The effect of this varying use of probation and of the power of release is seen in the proportion of sentences imposed by the several courts. This proportion is affected by the use of both probation and the power of release for drunkenness vested in the probation officer. It will be seen by an examination of Table I that some courts use one of these and not the other: some use both and some use neither. The percentage of sentences to cases begun varies as widely as does the use of either of the powers mentioned.

In the following summary, in which the grouping already used is continued as a basis of comparison, these results are found:—

TABLE IV.

SUMMARY OF TABLE I, SHOWING, BY LARGE GROUPS, THE NUMBER OF CASES OF ALL KINDS BEGUN AND THE PERCENTAGE WHICH SENTENCES IMPOSED BORE TO CASES BEGUN.

Number of Cases begun.	Percentages of Sentences.	
	Highest.	Lowest.
Less than 500 cases each (23 courts)	85.4	24.6
500 to 999 cases each (15 courts)	73.3	30.6
1,000 to 1,999 cases each (15 courts)	76.1	28.9
2,000 to 2,999 cases each (6 courts)	68.5	36.5
3,000 to 3,999 cases each (3 courts)	66.6	40.9
4,000 to 4,999 cases each (3 courts)	51.4	45.9
5,000 to 5,999 cases each (3 courts)	50.0	31.7

The variations in the percentages which the number of sentences imposed bear to the number of cases begun take a very wide range. The court which sentenced but 24.6 per cent. of its cases is a small one and exceptional, but there are five, including some large ones, in which nearly two-thirds

of the accused were not sentenced, and twenty-nine in which the number sentenced was less than one-half of the number begun. On the other hand, while the single small court which imposed sentences in 85.4 per cent. of its cases was exceptional, there were twelve courts, including some large ones, which imposed sentences in two-thirds of their cases, and many more which sentenced 60 per cent. Courts with adjoining jurisdictions vary from 36.5 sentences in a hundred to 45.9 per hundred. Two others, in similar relation, varied from 30.6 to 50 per hundred. In another similar case a person arrested on one side of a line separating two court jurisdictions stood 47 chances in a hundred of being sentenced, while, if he were arrested on the other side of it, his chances were but 38.5 in a hundred.

The value of the statistics of sentences, as published by the Prison Commissioners, is impaired by the fact that no allowance is made for suspended sentences. Formerly the imposition of a sentence was followed by its execution and each sentence represented a penalty actually inflicted (less a few cases in which the execution of the sentence was stayed by an appeal). But under the new system sentences are imposed and the offender is placed on probation. If he relapses and is surrendered, the original sentence is executed. Suspended sentences are of two classes,—sentences to pay fines and sentences to definite terms of imprisonment. In the former case the probationer pays his fine to the probation officer who turns it over to the court. If payment is made, these cases are properly counted among the sentences, as the penalty is really inflicted. Sentences to imprisonment suspended permanently because of the good behavior of the probationer should be deducted from the total number of sentences, because they do not represent the infliction of a penalty but only what would be inflicted in certain contingencies. He is now counted twice,—as a probationer and as a person sentenced. The number of suspended sentences reported in 1906 was 2,444, but the Prison

Commissioners' report does not give these cases by courts, nor does it distinguish between sentences to imprisonment, not served, and sentences to pay fines, complied with. The number of cases is not large enough to affect the results materially, and for practical purposes the tables given represent substantially the action of the various courts.

The statistics presented make it clear that the courts differ widely in their views regarding the proper subjects for probation. It is generally agreed that persons arrested for drunkenness can wisely be dealt with in this way, though there is a great variation in the proportion of cases of drunkenness put on probation. There is a much greater difference in the use of probation for other offences. Some courts use it exclusively for drunkenness, while in others the majority of cases are for other offences.

Some courts use probation largely in cases of neglect of family, making it a condition of the probation that the probationer shall pay money to the probation officer for the support of those dependent upon him,—a method which has produced excellent results. Other courts imprison for this offence, thus preventing the offender from doing the thing he is complained of for not doing. Some courts report a large number of juvenile offenders placed on probation for breaking and entering: others make no such use of probation. Stubborn children are placed on probation in large numbers by some courts: others do not include them in the list of those who can be treated in this manner. There is the widest variation as to the use of probation in larceny cases and assault cases. Some courts do not think it proper to deal with a case of larceny in this way: others use it in many cases. In some courts it is customary to make restitution a condition of probation in larceny cases, and to require reparation as a condition in cases in which injury to person or property has resulted from the offence. Other courts almost never require restitution or reparation in cases of these classes.

Mention has been made of the practice in some courts

of giving probationers time in which to pay their fines. The number of courts using this method is not large, but those which do use it find it very valuable both financially and as a means of reformation. When a man is imprisoned for the non-payment of a fine, he is likely to lose his situation and in most cases is unable to pay the fine. The public has the expense of commitment and of his support while in prison, and in many cases does not get the fine. If placed on probation, he keeps his work while the public has no expense and gets the fines. Some probation officers obtain 97 per cent. of the fines committed to them for collection. Many courts make no use of the probation officer in the collection of fines, but commit to prison at once.

In the following table the use of probation by nineteen courts is shown. The courts which are grouped together are of substantially the same size, so that the table shows the number of probation cases in similar courts and also reflects the varying views of judges regarding the offences for which probation can be used wisely:—

TABLE V.

SHOWING NUMBER OF CASES PLACED ON PROBATION BY 19 COURTS, WITH PRINCIPAL OFFENCES OF PROBATIONERS.

	Drunkenness.	Assault.	Breaking and entering.	Disturbing the peace.	Violation of city ordinance.	Larceny.	Neglect of family.	Stubbornness.	Miscellaneous.	Total.
Worcester, 2 E.	43	10	7	1	-	4	-	-	3	68
Worcester, 3 So.	139	-	-	-	-	1	-	-	-	140
Worcester, 1 No.	5	2	3	2	-	1	-	-	1	14
Brookline	40	5	-	-	-	14	4	-	33	96
Hampden, W.	15	-	-	-	-	-	-	1	1	17
Bristol, 4	35	6	-	12	-	2	6	2	8	71
Berkshire, No.	99	1	-	-	-	-	-	-	3	103
West Roxbury	92	5	-	-	2	13	-	4	29	145
Essex, Eastern	47	1	-	-	-	-	1	-	2	51
Middlesex, 4 E.	78	7	9	-	-	10	7	1	8	120
Essex, No. (Central) . .	515	5	2	1	-	15	8	3	9	558
Bristol, 3	10	1	-	1	-	1	14	1	-	28
Springfield	100	-	-	-	-	3	-	1	1	105
Middlesex, 1 E.	163	5	8	1	2	5	7	7	37	235
Holyoke	130	-	-	-	-	5	2	5	4	146
Somerville	245	30	31	12	18	54	17	5	54	466
Lynn	73	6	1	1	-	17	21	10	7	136
Roxbury	135	34	39	4	2	73	41	27	100	455
Worcester	135	-	-	-	-	-	3	-	3	141
Total	2,099	118	100	35	24	218	131	67	303	3,095

This table has two notable features. It shows (1) the different methods of different courts in the treatment of drunkenness. For example, the Third E. Worcester Court put on probation 139 cases of drunkenness; the Second Eastern, only 43; the Western Hampden, 15; and the Fourth Bristol, 35; the Northern (Central) Essex, 515; and the

Third Bristol, but 10; Holyoke, 130 and Somerville, 245; Lynn, 73, while Roxbury and Worcester had 135 each.

But it shows also (2) that the Brookline court used probation in 56 cases other than drunkenness, while the First Northern Worcester used it in but 9 such cases. Northern Berkshire put but 4 other cases on probation, while West Roxbury used it in 53 such cases. In the Fourth Eastern Middlesex 42 cases other than drunkenness had the advantage of probation, while Eastern Essex used probation in but 4 such cases. In Springfield only 5 cases other than drunkenness were given probation, though in the First Eastern Middlesex 72 persons who had committed other offences were so dealt with. Holyoke used probation in 16 cases besides drunkenness; Somerville in 221 cases. Roxbury used probation in 320 other cases; while Worcester, which had the same number of probation cases of drunkenness, used it for only 6 other cases.

Five of these courts did not use probation at all for assault; the other fourteen used it in 118 assault cases. Four courts did not use probation in any larceny cases, and three others used it in only one case each. The remaining twelve courts used it in 210 larceny cases, Somerville trying it in 54 cases and Roxbury in 73 cases. Probation in cases of neglect of family has been used with success for some years as a means of compelling men to work and care for their dependents. It was used in 409 of the 1,781 cases of this nature begun last year. 131 of these probation cases were in these nineteen courts, but they were not evenly distributed, Somerville, Lynn, and Roxbury furnishing 79 of the 131, while seven courts did not use it in any such cases, and some others in only a very few cases. The table furnishes many other interesting comparisons which bear upon the question of the use of probation. It is not the province of this article to approve or disapprove the methods of the different courts or to say which of any two of the contrasted courts is the wiser. This may be said, however, that as a rule the courts which used

probation most freely and in the largest variety of cases are the ones which have tested it in the same classes of cases in previous years and have found that probation was preferable to imprisonment, while those which used it least and for the narrowest range of offences are those which have not tried it in previous years and have had therefore almost no experience of its possibilities.

The first effect of the unequal use of probation is borne by those who are arrested. As a general principle, the results of a man's wrong-doing should be the same, no matter where the offence is committed, but this principle does not control in these courts. Whether the study of our statistics of crime relates to releases of persons arrested for drunkenness, to persons placed on probation, or to persons sentenced, there is everywhere great inequality and lack of uniformity. What the penal results of a crime will be depends wholly upon the place where it is committed. There is no intention of unfairness. It depends wholly upon the differing views of different judges, each of whom conducts his court on his personal theories, under a judicial system which gives him the largest discretion and the largest latitude in the use of penalties.

The tax-payer has also a very vital interest in the largest use of probation. If society can be protected by its use, if probation yields as good results as imprisonment, every extension of that use has a financial bearing. Every prisoner must be fed and clothed. Probation saves to the tax-payer the cost of support.

There has been a decrease of 1,478 in the average prison population between 1897, when it reached its highest point, and 1906. The number of arrests was larger by 16+ per cent. in 1906 than in 1897. A proportionate increase in the prison population would have added 1,238 to the average, bringing the prison population up to 8,978, and the decrease would have been 2,716. The cost of food and clothing is somewhat in excess of a dollar a week. An estimate far

below the actual cost of food and clothing shows a saving of at least \$150,000 a year. This reduction of the prison population, and consequent saving in cost of supporting prisoners, has been due almost wholly to the growth of the probation system.

If the use of probation by all the lower courts were increased to equal the average of those which use it most freely, there would be a very large further decrease in the prison population and a proportionate saving in the cost of supporting prisoners. For example, in the entire group of courts having from 1,000 to 1,999 cases each, the average number of probation cases was 11 per cent. If the courts below the average had reached the average, there would have been an increase of 755 cases.

If those which make the largest use of probation are correct in drawing lessons from their own experiences, the results of such an extension of the use of probation would be better than those now secured by imprisonment.